

**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING
REJECTION OVER A PENDING "REFERENCE" APPLICATION**Docket Number (Optional)
PHO-107 DIV

In re Application of: Dees et al.

Application No.: 09/382,622

Filed: August 25, 1999

For: High Energy Phototherapeutic Agents

The owner*, Xantech Pharmaceuticals, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending **reference** Application Number 09/817,448, filed on March 26, 2001, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said **reference** application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending **reference** application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the **reference** application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

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2. ☒ The undersigned is an attorney or agent of record. Reg. No. 34,225

Signature

January 6, 2006
Date

Mark J. Murphy

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312-236-8500
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